

Appl. No. 10/810,129
Amdt. dated January 12, 2006
Reply to Office Action of November 30, 2005

REMARKS/ARGUMENTS

Claims 1 - 21 are presented for Examiner Waggoner's consideration.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Examiner Waggoner has stated that Applicant's title was not descriptive. Applicants have amended their title to: "A DISPENSER FOR HOUSING A PLURALITY OF FOLDED WET WIPES." Basis for this language appears on line 5 of claim 1. Applicants now believe that their title is descriptive of their claimed invention. Applicants thank Examiner Waggoner for bringing this item to their attention.

The specification has been amended on pages 2, 6, 8 and 12 to correct for either grammar, spacing, an incorrect number or for reference to the axis line X-X. No new matter has been introduced by way of these amendments and therefore they should be entered at this time.

By way of the Office Action mailed November 30, 2005, Examiner Waggoner rejected claims 1 – 9, 10, 13, 16-18 and 21 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 6,523,690 to Buck et al. Examiner Waggoner admits that Buck does not teach or disclose the separation force between the adjacent wet wipes, the test method for determining the separation force, the surface area of the entrance formed in the top wall, the height of the dispenser or the dimensions of the entrance measured along the transverse axis. Examiner Waggoner cites Gardner v. TEC Systems, Inc. 725 F.2d 1338, 220 USPQ 77 (Fed. Cir. 1984) for supporting his view that such elements and features are an obvious design choice. This rejection is respectfully traversed.

Applicant's attorney has carefully reviewed the holding in Gardner v. TEC Systems, Inc. et al. and agrees with the CAFC holding that the recitation of relative dimensions alone do not create patentable subject matter, notwithstanding a showing of any secondary factors such as long felt, unsolved needs, failure of others in the field, or commercial success. However, Applicant's presently pending claims 1 – 21 recite far more than merely relative dimensions. Applicants have explained in their "Background of the Invention" section, appearing on pages 1 and 2 of their application, that a problem currently exist with trying to remove a single wet wipe from a wet wipe dispenser. The fact that the plurality of wet wipes are normally interleaved or folded together or are joined by a line of perforations, the fact that the wet wipes are formed from a substrate material that is wetted by a liquid solution, the fact that the plurality of wet wipes are compressed into a wet stack, and the fact that an attraction force exists between adjacent wet wipes create a unique

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situation in being able to extract a single wet wipe from the dispenser. Applicants have been able to overcome these obstacles by inventing a dispenser having unique structural features and characteristics that function in combination to provide a useful dispenser.

Applicants would first like to direct Examiner Waggoner's attention to page 18 of their specification, at lines 3 – 12, wherein they recite the relationship of the entrance formed in the second member to the width of one of the folded wet wipes. The reason for requiring a value of at least about 0.7 is to allow the user to easily remove an individual wet wipe from the dispenser. This value will determine the functionality and usefulness of using a dispenser that truly works.

Applicants would also like to direct Examiner Waggoner's attention to U. S. Patent 6,550,634, which issued April 22, 2003 to Alegre De Miquel et al. and which is assigned to The Procter & Gamble Company. This patent was cited by Applicants in their Information Disclosure Statement. Claim 1 of this patent recites a dispenser capable of holding a plurality of wet wipes. The dispenser contains an aperture having a certain cross-sectional area. In addition, the wet wipes are folded in a Z fold and interleaved together and have an average separation force. Although the separation force is calculated differently from that claimed by Applicants, one can readily see that the relationship of surface area of the entrance and separation force needed to separate one wet wipe from another, are patentable characteristics. Such characteristics are not obvious to one skilled in the art but require an exceptional amount of experimentation and laboratory verification to arrive at a structure that will perform as intended.

Applicants are presently claiming a dispenser for housing a plurality of wet wipes by claiming similar and additional features and using different test values. By performing extensive laboratory experimentation, Applicants have been able to create a dispenser that functions better than any known wet wipe dispenser. The combination of a dispenser formed from a first and a second member, each formed from a semi-rigid material, and the dispenser having a height of less than about 2.5 inches allows a plurality of wet wipes to be contained therein. The height of the dispenser becomes critical because the wet wipes are folded such that they have a normalized separation force of less than about 65g/cm between adjacent sheets. If this force exceeds 65 g/cm and if the height of the dispenser is made larger than 2.5 inches, it becomes difficult, if not impossible, to remove a single wet wipe at a given time. These factors combined with the surface area of the entrance formed in the top wall allow the dispenser to function as intended. If the entrance is sized outside of the claimed ranges, it has been found that it is not easy for one to remove all of the wet wipes from the dispenser, one at a time. If the entrance is sized too small, the index finger and thumb of the person trying to remove the wet wipe will not fit through the entrance or the wet wipe will tear while being removed. If the entrance is sized too large, multiple

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wet wipes will exit the dispenser at one time due to the separation force present between adjacent wipes. In addition, each wet wipe can be folded such that its leading edge is spaced apart from the longitudinal centerline of the dispenser. The entrance has to be sized large enough to accommodate this situation, see page 17, lines 23 – 26 of Applicants' specification. For these reasons, Applicants' claimed characteristics and structure are required in order to produce a functional wet wipe dispenser, one that will allow a single wet wipe to be withdrawn at a given time from the entire stack of wet wipes.

Applicants would also like to make Examiner Waggoner aware of the fact that extensive experimentation was conducted in order to obtain a range of normalized separation forces between adjacent wipes which would allow each wet wipe to be withdrawn individually from the dispenser. Applicants found by experimentation that the normalized separation force between adjacent wet wipes has to be from about 0.5 g/cm to about 65 g/cm for the size opening of the entrance or all of the wet wipes will not be able to be withdrawn individually. This normalized separation force is lower than the range taught by Alegre De Miquil et al. in U.S. Patent 6,550,634. This means that Applicants must control the normalized separation force between their adjacent wet wipes in order for their dispenser to work as intended. This synergistic effect between the surface area of the entrance and the normalized separation force between adjacent wipes is required to produce a functioning wet wipe dispenser. Accordingly, Applicants' range of normalized separation forces between adjacent wet wipes, the height of their dispenser, the surface area of their entrance, and the dimension of the entrance measured along the transverse axis when compared to the width of each folded wet wipe are not merely relative dimensions. All of Applicants' claimed features work in combination with one another to produce a functioning wet wipe dispenser. In view of the amount of time, effort and experimentation that Applicants conducted to perfect their invention, they do not believe that such claimed structure and features are obvious to one skilled in the dispensing art. Accordingly, Applicants believe that this rejection should be withdrawn.

By way of the Office Action mailed November 30, 2005, Examiner Waggoner rejected claims 11 and 12 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 6,523,690 to Buck et al. in view of U.S. Patent Number 6,758,369 to Morin et al. This rejection is respectfully traversed.

Examiner Waggoner admits that Buck does not teach or disclose changing the orientation of the aperture or entrance so that it is skewed relative to the longitudinal axis of the dispenser. Buck shows the aperture to be longitudinally aligned with the longitudinal axis of the dispenser. Examiner Waggoner also admits that Buck does not teach or disclose an entrance or opening

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having a generally elliptical configuration with its largest dimension aligned approximately parallel to the transverse axis.

Morin et al. teaches an opening formed in the top wall of a container that is provided with elongated projections extending from opposite sides of the opening. Morin et al. does not teach or disclose an entrance or opening having a generally elliptical configuration as recited in Applicants' claims 11 and 12. Morin et al. also does not teach or disclose an entrance or opening having a generally elliptical configuration with its largest dimension aligned either approximately parallel or approximately perpendicular to the transverse axis as recited in Applicants' claims 11 and 12, respectfully. Accordingly, Applicants believe that this rejection should be withdrawn and claims 11 and 12 are patentably distinct over the combination of Buck and Morin et al.

By way of the Office Action mailed November 30, 2005, Examiner Waggoner rejected claims 14 and 19 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 6,523,690 to Buck et al. in view of U.S. Patent Number 6,964,726 to Chen et al. This rejection is respectfully traversed.

Examiner Waggoner admits that Buck does not teach or disclose a substrate formed from coform and a liquid composition that contains at least 97% water. Examiner Waggoner cites Chen as teaching wet wipes being made from coform and soaked in a solution of mainly water and concludes that it would be obvious to use Chen's wet wipes in the Buck dispenser because coform wet wipes are more durable than paper wet wipes. First, Applicants do not believe that it is proper to combine these two references since Buck does not teach or disclose wet wipes having a normalized separation force between adjacent wet wipes of from between about 0.25 g/cm to about 65 g/cm. One skilled in the wet wipe art would not envision forming the wet wipes of Buck out of coform. Second, there is no teaching in Chen to place his coform wet wipes in the Buck dispenser. Third, Chen, at Column 16, lines 5 – 10, states that:

"Generally, the web will be dry (e.g. about 92% solids or greater), but printing on a moist web is not necessarily outside the scope of the present invention. For example, the web may have a moisture content of 5% or greater, 10% or greater, or 20% or greater, such as from about 5% to 50%, or from 10% to 25%."

Chen seems to imply a dry web but includes a web with a moisture content of 5% or greater, such as from about 5% to 50%. Chen does not specifically recite a wet wipe formed from a substrate wherein the substrate contains coform and a liquid composition that contains at least 97% water. Fourth, Applicants are not printing on a moist web but instead create a wet wipe from a substrate formed from coform and a liquid composition that contains at least 97% water. Accordingly, Applicants do not believe that their claims 14 and 19 are rendered obvious in view of the

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combination of Buck and Chen. Even if the teachings of Chen includes 97% water, the combination of Buck and Chen still fails to render Applicants' invention obvious because the two cited prior art patents do not disclose Applicants' normalized separation force between the adjacent wet wipes, the surface area of the entrance formed in the second member nor the dimension of the entrance divided by the width of the folded wet wipes being at least about 0.7. These parameters are essential to making a working dispenser that is capable of housing a plurality of wet wipes, wherein each wet wipe can be individually withdrawn through the entrance formed in the second member.

By way of the Office Action mailed November 30, 2005, Examiner Waggoner rejected claims 15 and 20 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 6,523,690 to Buck et al. in view of U.S. Patent Number 4,865,221 to Jackson et al. This rejection is respectfully traversed.

Examiner Waggoner admits that Buck does not teach or disclose a dispenser formed from a thermoplastic material. However, Examiner Waggoner cited Jackson (U.S. Patent 4,865,221) as teaching this feature. Applicants' attorney has carefully reviewed the Jackson reference but can not find any language stating that the dispenser is formed from a thermoplastic material. However, Jackson does state that the wet wipes can be formed from a thermoplastic material. Applicants' attorney respectfully asks Examiner Waggoner to cite the Column and line number of where such language that supports his position appears. If Jackson does not include such language, then this rejection must be withdrawn. Accordingly, Applicants do not believe that their claims 15 and 20 are rendered obvious in view of the combination of Buck and Jackson.

For the reasons stated above, it is respectfully submitted that claims 1 – 21 are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-2455.

Respectfully submitted,

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